

 [Print this article](#) |  [Close this window](#)

Acquitted can't afford civil suit

Joel Gibson
October 17, 2010 - 3:00AM

THE only thing stopping hundreds of people who are denied bail and later acquitted of charges each year from suing the government is that they can't afford it, shadow attorney-general Greg Smith says.

Advertisement

About one-quarter, or 2600, of NSW prisoners are on remand, twice the number of any other state, a government review of bail laws revealed this week.

About 30 per cent of these are later acquitted but the review did not recommend any changes in policy.

"In a previous age there would be all sorts of damages actions being taken but that's not happening these days as there's no legal aid available for it," Mr Smith said.

His comments followed the revelation yesterday that the judges in charge of the state's three main courts - Supreme, District and Local - all believe tough law and order policies in NSW have gone too far.

Chief Justice Jim Spigelman and Chief Magistrate Graeme Henson told *The Sydney Morning Herald* they agreed with a call by Chief Judge Reg Blanch for a more comprehensive review of bail and sentencing in NSW.

Justice Blanch made the comment in June in light of soaring remand populations and longer sentences that he said were destroying the chances of rehabilitating offenders, rather than reducing crime.

Mr Smith said the judges were simply "showing the commonsense and experience that they get from applying criminal justice".

"They would know that many of the changes that came as a result of law and order actions have been more damaging than advantageous for the criminal justice system.

"I know there are some who think judges are too lenient but in my experience they generally get it right, or pretty right. It's only the aberrations that get publicised ... and you shouldn't make big changes to the law to cover some embarrassing court case."

He agreed with Justice Blanch that it was time to review section 22A of the Bail Act, which had led to overcrowding particularly in juvenile justice centres, and standard non-parole periods, which Mr Smith said were inconsistent and should be replaced in some cases by guideline judgments created by the courts.

A spokesman for the Attorney-General would only comment when the *Herald* series is complete.

This story was found at: <http://www.smh.com.au/national/acquitted-cant-afford-civil-suit-20101016-16oaq.html>